

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Examiner: Yogesh E. Garg
David Verchere))
) Art Unit: 3625
)
Application Serial No. 09/838,133) Confirmation No: 9529
)
Filed:) Attorney's Docket No. 123041-175050
)
For: METHOD AND SYSTEM FOR)
CONFIGURATING PRODUCTS)
)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DECLARATION OF DAVID VERCHERE UNDER 37 C.F.R. § 1.132

I, David Verchere, hereby declare as follows:

1. I am the inventor of the subject matter described and claimed in the above-identified patent application.
2. I am a citizen of Canada and reside at 351 West 20th Street, Number 4, New York, New York 10011.
3. As the inventor of its subject matter, I am quite knowledgeable as to the specification of the above-identified patent application and the claims presently pending in the application. In preparation for making this declaration, I have reviewed rejection of claims 1-5, 7, 11-15 and 17, as being obvious over U.S. Patent 6,493,677 von Rosen et. al. ("von Rosen") in view of the teaching of a publication authored by Bittel, Lester Robert (Ed.), Encyclopedia of Professional Management, ISBN 0-07-005478-9, pp. 739 and 958 ("Bittel") in further view of Turbide, David

A; "Manufacturing systems", v 14n9 PP: 84-90 Sep 1996 CODEN: MASYES ISSN: 0748-948X JRNL CODE MF ("Turbide").

4. I have worked in the promotional products industry for twelve years, beginning in 1996 as a commission-based sales person. Over this time, I have gained extensive knowledge and expertise in the marketing and promotional products field from both on-the-job experience and from observing colleagues. As Chief Executive Officer of the Buttonwood Technology Group LLC, I work actively in the field of marketing and promotional products. In my capacity as Buttonwood CEO, I attend trade shows and business conferences in the field of marketing and promotional products and am quite familiar with many persons actively working in the field.

Rejection Under 35 U.S.C. § 112

5. I understand that the written description requirement pursuant to 35 U.S.C. § 112 is simply that the claimed subject matter must be described in the specification. I also understand that it is not necessary that the application describe the claim limitations *in hac verba*, but only so clearly that persons of ordinary skill in the art would recognize from the disclosure that applicant's invention included those limitations.

6. A person having ordinary skill in the field of marketing and promotional products would find the amended claim reciting: "dynamically generating a product identifier using the product parameter identifying and pricing computer when the product is sourced, quoted or ordered, wherein the product identifier is defined by a combination of the product's one or more item parameters, one or more process parameters, one or more artwork parameters and said price" to be supported by disclosures of the present application and its parent, the '415 Patent.

7. A person having ordinary skill in the field of marketing and promotional products would find that the specifications sufficiently describe the claimed invention.

8. In particular, the specification of the present application describes that item, process, and artwork parameters and price are used to generate a unique identifier for each unique item. (*See, e.g., ¶¶* [0032], [0039], and [0047].) Thus, when a unique identifier is generated, each parameter including price is taken into consideration.

9. Likewise, the specification of the '415 Patent describes that item, process, and artwork parameters and price are used to generate a unique identifier for each unique item. The '415 Patent specification states that a "SKU is generated for every vendor partner product *including* variations within a product category." (Col. 4, ll. 25-41) (emphasis added). The specification does not limit the linking of the SKU to only product definitions, as suggested by the Action. Instead, the disclosure describes a "SKU database" that stores a SKU for each variation of the product, as defined by the vendor product, vendor pricing with quantity breaks, net sup costs, etc., vender service and imprinting information. (*See* Col. 4, ll. 25-41.)

10. Accordingly, a person having ordinary skill in the art at the time the claimed invention was made would find that the disclosures of the present application and the '415 Patent support the claim term: "dynamically generating a product identifier using the product parameter identifying and pricing computer when the product is sourced, quoted or ordered, wherein the product identifier is defined by a combination of the product's one or more item parameters, one or more process parameters, one or more artwork parameters and said price."

Rejection Under 35 U.S.C. § 103

11. I understand that when applying 35 U.S.C. § 103(a) to the claims to determine whether they are obvious, the following tenets of patent law must be followed: 1) the claimed invention must be considered as a whole; 2) the references must be considered as a whole; 3) the

references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and 4) reasonable expectation of success.

12. It would not be obvious to a person having ordinary skill in the field of marketing and promotional products to combine the disclosures in von Rosen with Bittel and Turbide to arrive at the present invention.

13. Von Rosen discloses a method for creating merchandise over a computer network. Von Rosen makes no mention of any mechanism that considers process parameters. Further, von Rosen does not disclose any method for dynamically generating a price of the customized product utilizing various formulas and pricing data based on the item, process, and artwork. Von Rosen also does not disclose a method for generating a unique product identifier when the product is sourced, quoted, or ordered.

14. Bittel discloses the general business tenet that price must exceed cost over the long run and that there is a need for a good product numbering system. However, Bittel does not disclose a method for dynamically generating a price of the customized product using various formulas and pricing data based on the item, process, and artwork. Bittel also does not teach process customization. A person having ordinary skill in the field of marketing and promotional products would not be inclined by the disclosure of Bittel to separate process parameters from the product parameters in calculating costs and generating a product identifier. Moreover, Bittel does not teach or suggest any particular method for a parts numbering system.

15. Turbide discloses configuration software that automatically administers a product-definition by defining a bill of materials and routing information according to a customer's specification of the product. However, Turbide does not disclose any method for dynamically generating a price of the customized product utilizing various formulas and pricing data based on

the item, process, and artwork. Turbide also does not teach the ability to create a request that allows for process customization. Moreover, Turbide does not disclose a method for generating a unique product identifier when the product is ordered, created, or otherwise accessed. A bill of materials and routing information are not unique product identifiers. A bill of materials defines a product's structure. Routing information describes the plant resources to be used. Neither the bill of materials nor the routing information provide for a unique product identifier.

16. Moreover, Turbide teaches away from the use of unique identifiers. Turbide teaches that when a company generates a unique parts number for each variation of a product, the company must determine whether the variation is new, manufacturable, functional, and meets the company's and customer's requirements. Turbide teaches that this review process adds to the turn-around time, is unreliable, and uses up engineering resources. Turbide's configuration software is provided as a solution to the shortcomings of unique identifiers. Accordingly, Turbide teaches one skilled in the art away from using unique product identifiers.

17. Accordingly, it would not be obvious to a person having ordinary skill in the field of marketing and promotional products to combine the disclosures in von Rosen with Bittel and Turbide to arrive at the present invention.

18. I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that all such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

July 6, 2009
Date

David Verchere
David Verchere